GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Rules-The Andhra Pradesh Excise (Grant of licence of selling by shop and conditions of licence) Rules, 2012- Amendments – Orders - Issued.

REVENUE (EXCISE-II) DEPARTMENT

G.O.MS.No. 112 **Dated: 22-03-2017**

Read the following:

1) GO Ms.No.391 Rev. (Ex.II) Dept., Dt.18.06.2012.
2) GO Ms.No.357 Rev. (Ex.II) Dept., Dt.22.06.2013.
3) G.O.Ms No.264, Rev (Ex.II) Dept, dated:22.06.2014.
4) G.O.Ms.No.216 Rev (Ex-II) Dept. dt.22-06-2015.
5) G.O.Ms.No.217 Rev (Ex-II) Dept. dt.22-06-2015.
6) G.O.Ms.No.218 Rev (Ex-II) Dept. dt.22-06-2015.
7) G.O.Ms No.265, Rev (Ex.II) Dept, dated:13.07.2015.
8) Orders of Hon'ble Supreme Court of India, Dated.15.12.2016 in Civil Appeal Nos.12164-12166 of 2016.
9) From the Commissioner of Prohibition & Excise, A.P., Letter Cr.No.1/Shop policy for 2017-19/2017/E3, Dt:06-03-2017.
10) From the Commissioner of Prohibition & Excise, A.P., Letter Cr.No.1/Shop policy for 2017-19/2017/ Dt:14-03-2017.

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ORDER:

The following notification will be published in an Extra-ordinary Issue of the Andhra Pradesh State Gazette, dated the 23rd March, 2017.

NOTIFICATION

In exercise of the powers conferred under section 72 read with sections 17, 28 and 29 of the Andhra Pradesh Excise Act, 1968 (Andhra Pradesh Act 17 of 1968), the Government of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh Excise (Grant of licence of selling by shop and conditions of licence) Rules, 2012 issued in G.O.Ms.No.391 Revenue (Ex.II) Department, Dt.18th June, 2012 and published in Andhra Pradesh Gazette in Rules Supplement to part II, Extraordinary No.1, dated the 18th June, 2012 and amended from time to time:

AMENDMENTS

In the said rules:

1. In rule 2, in sub-rule (1),

(1) for clause (h), the following shall be substituted, namely,-

"Highway means a National highway or a State highway as notified by the competent authority."

(2) for clause (n), the following shall be substituted, namely,-

"License period" means the period of twenty seven months or twenty four months commencing from 1st April or 1st July, as the case may be, and ending on 30th June or part thereof."

2. for rule 4, the following shall be substituted, namely,-

"4. Establishment of Shops:

"Subject to such directions, which the Government may issue in this regard from time to time, the Commissioner of Prohibition and Excise, having due regard to the requirement, public order, health,

safety and other factors as he thinks fit, may fix the number of shops to be established in a Mandal/ Nagar Panchayat/ Municipality /Municipal Corporation before the publication of notification under Rule 5 and may relocate any un-disposed shop(s) anywhere in the State as he thinks fit."

3. for rule 5, the following shall be substituted, namely,-

"**5. Notification in the District Gazette:**

Where it is proposed to grant license to sell IMFL and FL by shop, the Licensing Authority may call for application for grant of licenses in the Mandal / Nagar Panchayat/ Municipality /Municipal Corporation, as approved by the Commissioner of Prohibition and Excise, by issuing a notification in the District Gazette at least (5) five days in advance of the date of selection containing the following particulars, namely:-

i) Serial number and name of the Mandal / Nagar Panchayat/ Municipality / Municipal corporation where the shop(s) will be established. In case of shops to be located in Scheduled Areas the same shall be separately listed and numbered serially.

(ii) The place of selection with time and date.

(iii) The last date, time and place for receipt of applications.

(iv) The period of licence.

(v) Procedure of online enrolment by the applicant(s) for registration.

(vi) Any other matter which may be considered by the licensing authority necessary for information to the applicants.

4. Rule 6 shall be omitted.

5. for rule 7, the following shall be substituted, namely,-

"7. Entry Pass :

No person other than the officers on duty and persons duly authorized by the District Collector shall enter the place of selection without presenting an Entry pass in Form E-1, which is system generated and signed by authorized signatory and issued to the applicants who have already registered and filed applications, duly affixing his/her/their passport size photo(s)."

6. In rule 9, the following shall be added at the end, namely, -

"and specifically permitted by the licensing authority concerned."

7. for rule 12, the following shall be substituted, namely,-

" 12. Submission of applications for enrolment for registration and selection for grant of license:-

(1) (a) The applicant shall enrol through online for registration with the licensing authority by filling an application in Form-A3(A) for participating in the selection process of Shop.

(b) After enrolment as laid down in the sub-Rule 1 (a), the applicant shall obtain Form-A3(B), Registration Certificate in Form-R1 and Entry Pass in Form-E1, all system-generated, for

each Shop separately for onward submission to the licensing authority as laid down under these Rules.

(2) The application(s) in Form A-3(B) shall be submitted by the applicant(s) for each Shop separately in an envelope addressed to the licensing authority on or before the last date and time notified for receipt of applications along with the following:

(i) (a) Challan for Rs 50,000/- (Rupees Fifty thousand only) in respect of Shop located in Mandals, towards non-refundable registration charge.

(b) Challan for Rs 75,000/- (Rupees Seventy Five thousand only) in respect of Shop located in Nagar Panchayats and Municipalities and in the 2 KM Belt area from the periphery of the Municipalities, towards non-refundable registration charge.

(c) Challan for Rs 1,00,000/- (Rupees one lakh only) in respect of Shop located in Municipal corporations and in their 5 KM belt area from the periphery, towards non-refundable registration charge.

(d) Challan for Rs 5,000/- (Rupees Five thousand only) towards non refundable application fee.

(ii) Two recent pass port size photographs along with Photostat copies of AADHAR card, PAN card, 2 years' Income Tax returns/2 years' VAT returns.

(iii) Demand Draft for an amount of Rs.3,00,000/- (Rupees Three lakhs only) towards earnest money deposit drawn in favour of the Licensing Authority to be adjusted against the licence fee payable if the shop licence is granted on selection of the applicant or returned if the same is not granted or refused due to any reason.

(v) Scheduled Tribe Certificate and local Scheduled Area Residence Certificate (only in respect of local S.T. candidates applying for shops in Scheduled Areas).

(3) The envelope containing the application shall be superscribed with the words 'Application for registration and grant of licence in Form-A4 for the licence period 20_ - 20_ to sell IMFL and FL by shop at_____ (Sl. No. of the Gazette, Name of the Mandal / NagarPanchayat /Municipality / Municipal Corporation). The applicant may obtain acknowledgment for the envelope presented.

(4) The licensing authority after due verification of the documents submitted by the applicant as laid down under sub-Rule (2) may issue Registration Certificate in Form-R1 (system-generated) and Entry Pass in Form- E1 (system-generated) to the applicant.

(5) The applications not accompanied by the relevant documents/ enclosures specified under sub-rule (2) shall be forth with rejected by the Selection Authority.

(6) Every application shall be taken into consideration if it is presented on or before the prescribed date and time and no application shall be received after the prescribed date and time notified by the Licensing Authority.

(7) The selection process shall be taken up at the place, time and date notified in the presence of the applicants who are available at the time of selection.

Provided that if the District Collector considers that the selection process should be postponed to a future date/time or shifted to

a different venue for any reason he may do so by recording the reasons there-for and after notifying the same to the applicants.

(8) (a)The selection process shall be taken up shop-wise, as notified in the District Gazette.

Provided that the Commissioner may, for sufficient reason(s) to be recorded in writing, withdraw any shop from the selection process before the same is commenced

(b) At the commencement of the selection process the licensing authority shall first announce the names of persons and the number of persons who have filed applications for a particular shop.

(c) Where there is only one application for a shop, if the licensing authority is satisfied that the applicant is eligible for grant of licence and that the statutory requirements have been fulfilled, he shall collect the licence fees in the manner provided there for and grant the licence or if not so satisfied, reject the application after recording the reasons there for.

[(d) Where there are more than one application for a Notified shop, the selection among the eligible applicants for grant of licence shall be by drawal of LOT by the Collector, irrespective of the presence of the applicants.

(dd) The Collector, after selecting the applicant in respect of a Shop, may continue drawl of lots and select one more applicant from among the remaining applicants as reserve applicant, who may, subject to the provisions of these rules, be allotted the A4 shop, in case the applicant selected first fails to comply with the conditions laid down in these rules on the day of drawl of lots or subsequently.

(e) In case the selected applicant is not willing to take the licence, the earnest money deposit submitted along with the application in the form of Demand Draft shall stand forfeited to the Government.

(f) The successful applicant shall sign his name or affix his thumb impression against the relevant entry in the register maintained for the purpose.

(g) Where the successful applicant is not available at the place of selection, and fails to comply with the provisions laid down in these Rules, the earnest money deposit submitted along with the application in the form of Demand Draft shall be forfeited to the Government.

(9) The District Collector may, by order, reject any application on the ground that the applicant has indulged in impersonation referred to under Rule-9.

(10) No person shall be entitled to hold licence for more than one shop. In the event of a person being selected for a shop, all the other application(s) filed by him in respect of any other shop(s) shall automatically become invalid and the successful applicant, who has filed applications for more than one shop, shall immediately inform the details of other applications filed by him so as to declare them invalid.

Provided that the Commissioner of Prohibition & Excise may grant more than one licence to the persons representing Hybrid Hyper Markets, Malls, Co-operative Societies and Corporations owned by the State Government.

8. In rule 14, for the words "all the applicants in a separate register maintained for the purpose", the words "reserve applicants selected under Rule 12(8)(dd) and the remaining applicants in separate registers maintained for the purpose" shall be substituted.

9. for rule 15, the following shall be substituted, namely,-

"15.Selected applicant shall obtain license :-

The selected applicant shall submit application in Form A-4(A) for grant of license for permit room under sub-Rule 2 of Rule 25 and shall obtain license in Form A-4 after fulfilling the required formalities and satisfying the rules in respect of the premises where the shop will be located."

10. In rule 16,

(1) for sub-rule (1), under the proviso, for words "31st July" the words " 30th April or 31st July, as the case may be" shall be substituted.

(2) for sub-rule (2), the following shall be substituted, namely,-

2 (a) The licensee of a shop, the license period of which commences from 1st April shall pay the license fee for the license period either in one lump-sum or in three instalments at his option.

(b) The licensee of a shop, the license period of which commences from 1st July shall pay the license fee for the license period either in one lump-sum or in two equal instalments at his option.

(3) for sub-rule (3), the following shall be substituted, namely,-

(3) (a) Where the selected applicant opts to pay the licence fee in three instalments, he/she shall pay the license fee for the first three months period from 1st April to 30th June of the first year for the shop less the amount remitted under sub-rule (2)(iii) of Rule-12 on the day of selection or the succeeding working day by way of Challan. He/ she shall also submit two Fixed Deposit Receipts or Bank Guarantees in Form A-5, each equal to the annual licence fee, valid for 4 months and 16 months respectively issued by a Scheduled Bank situated in Andhra Pradesh, within fifteen days of his/her selection and obtain the licence.

(b) Where the selected applicant opts to pay the licence fee in two instalments, he/she shall pay the annual license fee for the first year of the license period for the shop less the amount remitted under sub-rule (2)(iii) of Rule-12 on the day of selection or the succeeding working day by way of Challan. He/ she shall also submit a Fixed Deposit Receipt or Bank Guarantee in Form A-5, equal to the annual licence fee, valid for 16 months issued by a Scheduled Bank situated in Andhra Pradesh, within fifteen days of his/her selection and obtain the licence.

Provided that the District Collector may, at his discretion for valid and genuine reasons that may be recorded in writing, grant extension of time not exceeding seven working days to the selected applicant for submission of Fixed Deposit Receipt or Bank Guarantee in Form A-5 and obtain the Licence."

(4) for sub-rule (4), the following shall be substituted, namely,-

(4) (a) The Licensee of a shop, the license period of which commences from 1st April shall remit the 2nd instalment sum equal to the annual licence fee, on or before 20th June of the first year.

(b) The Licensee of a shop, the license period of which commences from 1st July shall remit the 2nd instalment sum equal to the annual licence fee, on or before 20th June of the succeeding year.

(c) The Licensee of a shop, the license period of which commences from 1st April shall remit the 3rd instalment sum equal to the annual licence fee, on or before 20th June of the succeeding year.

(d) The licensee shall also remit Rs.5,00,000/- (Rupees Five lakhs only) towards non refundable re-registration charge on or before 20th June of the succeeding year.

11. for rule 17, the following shall be substituted, namely,-

"**17**. **Re-allotment in case of failure to deposit moneys:**

In case of failure to furnish the Fixed Deposit Receipts or Bank Guarantees as required under Rule 16 within the time specified, the selection made for the concerned shop shall be cancelled by the District Collector and the amounts already paid shall be forfeited to the Government. In such a case the shop may be re-allotted **to the reserve applicant selected under the provisions of Rule 12(8)(dd)**, and if no one is available, action may be taken to re-notify the shop or take action under Rule-18 with prior permission of the Commissioner of Prohibition and Excise.

The first applicant shall continue to be responsible for the licence fee of that shop till the next successful applicant takes over."

12. for rule 19, the following shall be substituted, namely, -

19. Counterpart Agreement:-

After being selected it shall be the duty of the selected applicant to execute a counterpart agreement in conformity with the tenor of the licence in Form A-6 on a stamp paper of requisite value as per the provisions of the Indian Stamp Act, 1899 before taking out a licence for the sale of IMFL and FL.
" The counterpart agreement shall come into force with effect from the 1st April or 1st July, as the case may be, of the licence period in case selection process is conducted on or before 1st April and in case where the selection process takes place after 1st April, the counterpart agreement shall come into force from the date of commencement of license period and remain valid for the left over part of the licence period."

13. for rule 20, the following shall be substituted, namely,-

"20.Issue and commencement of licence:

"Mere selection of application does not entitle the applicant or confer on him any right to commence business until the licence has actually been issued. It shall be the responsibility of the successful applicant to complete the formalities contemplated in Rule 16 within the time specified and execute the counterpart agreement referred to in Rule 19 and obtain a licence. If the successful applicant fails to do so his selection shall stand cancelled automatically."

14. for rule 21, the following shall be substituted, namely, -

" 21. Bar on renewal of license:-

"A license granted under these Rules for the period from 1st April or 1st July of an year for a period of 27 months or 24 months, as the case may be, or part thereof shall not be considered for renewal for the subsequent year(s)."

15. for rule 23, the following shall be substituted, namely,-

"23. Period of the licence and commencement of business:—

"(1) Every licence granted for a period of twenty seven months shall commence from 1st April and the license granted for a period of twenty four months shall commence from 1st July.

Provided that a licence granted after 1st April of the licence period shall be valid for the remaining part of the licence period only.

Provided further that a licence granted for a part of a licence period shall be for such period as may be specified by the licensing authority.

Provided also that every licence holder shall commence his business from 1st April or 1st July, as the case may be, of the licence period or such other date as may be specified in the licence and shall keep the licensed premises open every day during the hours fixed till the expiry of the term of licence with sufficient stock of liquor unless the closure of the Licensed premises is ordered by the competent authority for the period specified."

16. In rule 25,

(1) for sub-rule (1),

(i) the following shall be substituted, namely,-

"(a) Subject to the approval of the Prohibition & Excise Superintendent the selected applicant shall select suitable premises for sale of IMFL and FL within the Municipal Corporation, Municipality, Nagar Panchayat or Mandal, as the case may be, as notified in the District Gazette. It shall be at least 100 meters away from the places of Public worship, Educational Institutions and Hospitals."

(b) "No shop for the sale of liquor shall be (i) visible from a national or state highway (ii) directly accessible from a national or state highway and (iii) situated within a distance of 500 Mts. of the outer edge of the national or state highway or of a service lane along the highway".

(c) "No signages and advertisements of the availability of liquors shall be permitted both on national and state highways."

(ii) under the explanation,

(i) for clause (c) the following shall be substituted, namely,-

(c). "High Way" means National High way or State Highway as notified by the competent authority.

(ii) for clause (d) the following shall be substituted, namely,-

(d) "Hospital" means any hospital which is managed or owned by a local authority, State Government or Central Government or any private hospital and having a provision of at least thirty (30) beds.

(2) for sub-rule (2), the following shall be substituted, namely,-

The holder of Licence in Form A-4 shall be licensed in Form A-4(B) to have a Permit Room.

Provided that no permit room licence in Form A4 (B) shall be granted to the Shop licensees in respect of Hybrid Hyper Markets or Malls.

The premises selected for permit room must be adjacent to the existing A-4 Licensed premises and it must have a minimum plinth area of 15 sq.mtrs. for consumption of liquor with facilities of sanitation such as wash basin, water closet and drinking water.

Provided that the selected premises for permit room shall be at least 100mtrs away from the places of public worship, educational institutions and hospitals.

Provided further that the selected premises for permit room shall not be (i) visible from a national or state highway (ii) directly accessible from a national or state highway and (iii) situated within a distance of 500 Mts. of the outer edge of the national or state highway or of a service lane along the highway".

17. for rule 26, the following shall be substituted, namely,-

" 26. Non refundable Registration Charge and License Fee for Permit Room and method of payment:-

The Non refundable Registration Charge and the license fee for a Permit Room shall be Rs.5,00,000/- and Rs.10,000/- respectively for the license period or part thereof and is payable in lumpsum, at the time of completion of formalities under Rule-16."

18. In rule 28,

(i) for sub-rule (3), the following shall be substituted, namely,-

"(3). Shifting of the licensed premises may be permitted for valid reasons within the same notified Mandal /Nagar Panchayat/ Municipality/ Municipal Corporation, subject to conditions as may be specified by the Commissioner of Prohibition & Excise and subject to payment of 1% of licence fee or Rs.25,000/- whichever is higher."

(ii) for proviso under the rule, the following shall be substituted, namely,-

""Provided that the Commissioner of Prohibition and Excise may consider and permit for valid reasons shifting of the licensed premises of Shop located in the 2 KM belt area from the periphery of a Municipality or 5 KM belt area from the periphery of a Municipal Corporation within the same belt area from the periphery of a Municipality or a Municipal Corporation only, without affecting the total number of notified shops in the Mandal/ Nagar Panchayat / Minicipality / Municipal Corporation subject to conditions as may be specified by the Commissioner of Prohibition & Excise and subject to payment of 1% of licence fee or Rs.25,000/- whichever is higher."

19. for rule 48, the following shall be substituted, namely,-

" 48. Licensee to maintain accounts:-

"(1) The Licensee shall maintain full and day to day accounts of IMFL and FL received and disposed of in Form R-1 the pages of which are machine numbered serially. He shall also maintain such other returns as may be required by the Commissioner of Prohibition and Excise, and he shall, for each month, send monthly statements and returns before the 5th of the following months in the forms as may be fixed by the Commissioner to the Prohibition and Excise Superintendent and local Prohibition and Excise Inspector. All registers should be got authenticated before use by the Prohibition and Excise Superintendent. Progressive usage of information technology shall be done as directed by the Commissioner of Prohibition and Excise.

(2) The licensee shall install the required equipment for effective implementation of HPFS and required machinery for reading of Holographic Excise Adhesive Labels (HEAL)."

20. For form A-3 (A), the following form shall be substituted, namely,-

Form A-3 (B)

Application for Grant of License of Shop GSL No._____ as Notified in the District Gazette

(Rule 12)

[Bar code]

Affix passport size photograph of the applicant

GAZETTE No._____ DATED _____

DISTRICT :

1.	Name of the Applicant	:	
2.	Father's Name	:	
3.	Full Residential Address	:	
4.	Age	:	
5.	Registered Mobile No.	:	
6.	Income Tax PAN No.	:	
7.	Aadhar Number	:	
8.	Gazette Serial Number of the Shop	:	
9.	Mandal/Nagar Panchayat/ Municipality/Municipal Corporation of the Shop as notified in the Gazette	:	
10.	License fee notified for the Shop	:	(to be filled by the applicant)
11.	License Period	:	(to be filled by the applicant)
12.	Details of Payment of EMD (See Rule 12(2)(iii))	:	(to be filled by the applicant) D.D. No. BANK Amount Rs.
13.	Sole proprietor/partnership Firm/Company(give details)	:	(to be filled by the applicant) Sole partnership Company
14.	Address of Premises to be Licensed	:	(to be filled by the applicant) Address (not mandatory)
15.	Details of other Excise Licenses, if any, held by him in the State of A.P.	:	(to be filled by the applicant) Details
16.	IT/VAT returns for two years (Xerox copies to be attached at the time of submission)	:	YES/NO (if NO, application is liable for rejection)

I hereby declare that the particulars given above are true to the best of my knowledge and belief. If at a later stage any of the facts are found to be false the license may be cancelled and I may be prosecuted as per the Andhra Pradesh Excise Act, 1968 or the Rules thereunder.

I hereby declare that I am not disqualified under Rule 8 of the A.P. Excise (Grant of license of selling by shop and conditions of license) Rules 2012.

I hereby, undertake to abide by the Rules and License Conditions prescribed under the Andhra Pradesh Excise Act, 1968 and I shall abide by the decision of the Selection Authority in all matters connected with my application(s).

Place: Signature of the Applicant

Date:

21. For Entry pass form, the following shall be substituted, namely,-

Form – E1

ENTRY PASS

_____ DISTRICT

(See Rule 7)

GOVERNMENT OF ANDHRA PRADESH

PROHIBITION AND EXCISE DEPARTMENT

[Bar code]

Affix Passport Size Photograph of the Applicant

Serial No. ( ) Date :

(To contain Gazette Sl. No. of the shop with token Sl.No.)

Sri _____ S/o _____ Age _____ Residential address _____ is authorized to participate in the selection process of the following Shop.

a) Gazette Serial No. _____
b) Mandal/
Nagar Panchayat/
Municipality/
Municipal Corporation _____

Authorized signatory

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* This document is system-generated and is valid only if it is signed by authorized signatory

22. The following form A 3-(A) is inserted, namely,-

Form A-3 (A)

(See Rule 12)

Application for registration for participation in the selection process of Shop

1. Name of the Applicant :
2. Father's Name :
3. Full Residential Address :
4. Age :
5. Registered Mobile No. :
6. Income Tax PAN No. :

7. Aadhar Number :
8. e-mail ID :

23. The following form is inserted, namely,-

Form- R 1 (Rule 12)

REGISTRATION CERTIFICATE

[Bar code]

Reg. No._____ DATED _____

1. Name of the Applicant :
2. Father's Name :
3. Full Residential Address :
4. Age :
5. Registered Mobile No. :
6. Income Tax PAN :
7. Aadhar Number :
8. Gazette Serial No. of Shop :
9. Mandal/Nagar Panchayat/ Muncicipality/Municipal Corporation :
10. e-mail ID :

This certifies that the applicant has registered with the licensing authority, duly paying the non-refundable registration charge as required under the Rule 12 of A.P. Excise (Grant of license of selling by shop and conditions of license) Rules 2012 for participation in the selection process for the above said Shop.

Authorized signatory

***** This document is system-generated and is valid only if it is signed by authorized signatory

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJEYA KALLAM
CHIEF SECRETARY TO GOVERNMENT &
SPECIAL CHIEF SECRETARY (CT, P&E, R&S)

To
The Commissioner of Printing and Stationery and Stores Purchase, Vijayawada (He is requested to furnish 500 copies to Government and 1000 copies to the Commissioner of Prohibition & Excise, A.P, Hyderabad and 50 copies to Special Commissioner of Information and Public Relations, Vijayawada.)
The Commissioner of Prohibition and Excise, Andhra Pradesh, Vijayawada.
Copy to:
The Law (H) Department
The PS to Spl. CS to CM.
The OSD to Minister for Excise and Prohibition
The PS to Spl. CS to Govt.

//FORWARDED :: BY ORDER//

SECTION OFFICER